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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,143	07/16/2002	Frank-Gunter Niemz	4197-116	9811

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW  
PO BOX 14329  
RESEARCH TRIANGLE PARK, NC 27709

EXAMINER	
DEL SOLE, JOSEPH S	
ART UNIT	PAPER NUMBER
1722	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/089,143

Applicant(s)

NIEMZ ET AL.

Examiner

Joseph S. Del Sole

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1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2005 and 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-8, 11-14 and 16 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 4, 9, 10 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Examiner's Request***

1. The Examiner notes that due to fax transmission the quality of the claims submitted by the Applicant on 12/27/04 is poor. The Examiner requests that further transmissions of claims be made clearer, either by avoiding the use of a fax machine or using a larger font for the claims.

### ***Election/Restrictions***

2. Applicant's election with traverse of 6-7 and 11-14 in the reply filed on 12/27/04 is acknowledged.

The Examiner has reconsidered the restriction and what follows is an examination of all claims. Claims 1-5, 8-10 and 15-16 are no longer withdrawn, and in subsequent amendments their status identifiers should be changed to original, previously presented, currently amended or otherwise as is appropriate.

### ***Terminal Disclaimer***

3. The terminal disclaimer filed on 12/27/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any Patent granted on Application Number 10/070,624 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Specification***

4. The disclosure is objected to because of the following informalities: the first paragraph at page 3 of the specification is merely "2a", this must be deleted. This error

was pointed out in the first Office action and was not addressed, it must be addressed in the reply to this Office action.

Appropriate correction is required.

### ***Claim Objections***

5. Claims 4, 9, 10 and 15 are objected to because of the following informalities: in each of claims 4, 9, 10 and 16 the Applicant has apparently failed to amend the lettering of the steps in the claims in accordance with the changes made to the parent claim(s) and in claim 10 a grammatical error also exists. The Examiner suggests the following changes: **a)** at line 2 of claim 4 "stage (a), (c), or (d) should be changed to --stage (a), (d) or (e); **b)** at line 1 of claim 9 "step (d)" should be changed to "step (e)"; **c)** at line 2 of claim 10, "steps (c) and/or (d)" should be changed to --steps (d) and/or (e)--; **d)** at line 2 of claim 10 "consisting of;" should be changed to --consisting of:-- (the semicolon is inappropriate and should be a colon); and **e)** at line 2 of claim 15 "stage (c) and (d)" should be changed to --stage (d) and (e)--. Appropriate correction is required.

### ***Conclusion***

6. This application is in condition for allowance except for the following formal matters:

**a)** at the first line of page 3, "2a" must be deleted;

**b)** the reference letters for the steps and stages of claims 4, 9, 10 and 15 must be updated to correctly correspond with the reference letters of the corresponding parent claim(s)

and

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c) "consisting of;" should be changed to --consisting of:-- at line 2 of claim 2.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

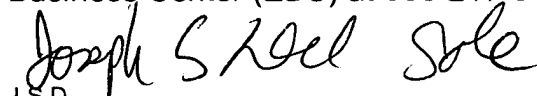
A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Benjamin Utech, can be reached at (571) 272-1137. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).



J.S.D.  
March 25, 2005